

House Study Bill 719

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
GOVERNMENT OVERSIGHT BILL
BY CHAIRPERSON ALONS)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to farm mediation, by providing for participation
2 by foreign business entities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6909HC 80
5 da/pj/5

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1 1 Section 1. Section 654A.11, Code 2003, is amended by
1 2 adding the following new subsection:
1 3 NEW SUBSECTION. 3A. a. A creditor may submit an
1 4 affidavit to the mediator executed by an attorney affirming
1 5 that the borrower is a foreign business entity organized as a
1 6 limited liability partnership, corporation, limited liability
1 7 company, or cooperative association and that the entity has
1 8 not been issued a certificate by the secretary of state as
1 9 follows:
1 10 (1) A certificate of existence for a domestic limited
1 11 liability partnership or a certificate of authorization for a
1 12 foreign limited liability partnership as provided in chapter
1 13 486A.
1 14 (2) A certificate of existence for a domestic corporation
1 15 or a certificate of authorization for a foreign corporation as
1 16 provided in chapter 490.
1 17 (3) A certificate of existence for a domestic limited
1 18 liability company or a certificate of authorization for a
1 19 foreign limited liability company as provided in chapter 490A.
1 20 (4) A certificate of incorporation for a corporation as
1 21 provided in chapter 491.
1 22 (5) A certificate of incorporation for a cooperative or
1 23 association as provided in chapter 497, 498, or 499, or a
1 24 certificate of organization as provided in chapter 501.
1 25 b. Upon receipt of the affidavit, the mediator shall issue
1 26 a release without further inquiry. If a civil action that
1 27 initiates a proceeding subject to this chapter is not
1 28 commenced within thirty days, the release is void. If the
1 29 court determines that the affidavit was incorrect, the court
1 30 shall dismiss the proceeding without prejudice. However, the
1 31 court may require that the plaintiff pay all court costs and
1 32 reasonable attorney fees of the borrower, which shall be taxed
1 33 as court costs.
1 34 Sec. 2. Section 654B.8, Code 2003, is amended by adding
1 35 the following new subsection:
2 1 NEW SUBSECTION. 2A. a. A farm resident may submit an
2 2 affidavit to the mediator executed by an attorney affirming
2 3 that the other party is a foreign business entity organized as
2 4 a limited liability partnership, corporation, limited
2 5 liability company, or cooperative association and that the
2 6 entity has not been issued a certificate by the secretary of
2 7 state as follows:
2 8 (1) A certificate of existence for a domestic limited
2 9 liability partnership or a certificate of authorization for a
2 10 foreign limited liability partnership as provided in chapter
2 11 486A.
2 12 (2) A certificate of existence for a domestic corporation
2 13 or a certificate of authorization for a foreign corporation as
2 14 provided in chapter 490.
2 15 (3) A certificate of existence for a domestic limited
2 16 liability company or a certificate of authorization for a
2 17 foreign limited liability company as provided in chapter 490A.
2 18 (4) A certificate of incorporation for a corporation as
2 19 provided in chapter 491.
2 20 (5) A certificate of incorporation for a cooperative or
2 21 association as provided in chapter 497, 498, or 499, or a
2 22 certificate of organization as provided in chapter 501.

2 23 b. Upon receipt of the affidavit, the mediator shall issue
2 24 a release without further inquiry. If a civil action that
2 25 initiates a proceeding subject to this chapter is not
2 26 commenced within thirty days, the release is void. If the
2 27 court determines that the affidavit was incorrect, the court
2 28 shall dismiss the proceeding without prejudice. However, the
2 29 court may require that the plaintiff pay all court costs and
2 30 reasonable attorney fees of the other party, which shall be
2 31 taxed as court costs.

2 32 Sec. 3. Section 654C.5, Code 2003, is amended by adding
2 33 the following new subsection:

2 34 NEW SUBSECTION. 2A. a. A neighbor may submit an
2 35 affidavit to the mediator executed by an attorney affirming
3 1 that the owner is a foreign business entity organized as a
3 2 limited liability partnership, corporation, limited liability
3 3 company, or cooperative association and that the entity has
3 4 not been issued a certificate by the secretary of state as
3 5 follows:

3 6 (1) A certificate of existence for a domestic limited
3 7 liability partnership or a certificate of authorization for a
3 8 foreign limited liability partnership as provided in chapter
3 9 486A.

3 10 (2) A certificate of existence for a domestic corporation
3 11 or a certificate of authorization for a foreign corporation as
3 12 provided in chapter 490.

3 13 (3) A certificate of existence for a domestic limited
3 14 liability company or a certificate of authorization for a
3 15 foreign limited liability company as provided in chapter 490A.

3 16 (4) A certificate of incorporation for a corporation as
3 17 provided in chapter 491.

3 18 (5) A certificate of incorporation for a cooperative or
3 19 association as provided in chapter 497, 498, or 499, or a
3 20 certificate of organization as provided in chapter 501.

3 21 b. Upon receipt of the affidavit, the mediator shall issue
3 22 a release without further inquiry. If a civil action that
3 23 initiates a proceeding subject to this chapter is not
3 24 commenced within thirty days, the release is void. If the
3 25 court determines that the affidavit was incorrect, the court
3 26 shall dismiss the proceeding without prejudice. However, the
3 27 court may require that the plaintiff pay all court costs and
3 28 reasonable attorney fees of the owner, which shall be taxed as
3 29 court costs.

3 30 EXPLANATION

3 31 This bill amends Code chapters 654A, 654B, and 654C, which
3 32 provide for mediation affecting agricultural producers. Code
3 33 chapter 654A requires mediation between creditors and farmers
3 34 who are borrowers prior to the enforcement of a legal action
3 35 to collect the debt. Code chapter 654B requires mediation in
4 1 disputes involving farmers who provide care and feeding to
4 2 livestock under contract. Code chapter 654C allows for
4 3 mediation between producers and neighbors negotiating for the
4 4 construction of animal feeding operation structures closer
4 5 than otherwise legally allowed to the neighbor's property.
4 6 Mediation is conducted by the farm mediation service (see Code
4 7 chapter 13).

4 8 Generally, the object of mediation is to provide a method
4 9 for parties in a dispute to reach an accommodation prior to
4 10 instituting a legal action. If an accommodation is reached,
4 11 the parties execute a settlement agreement, referred to as a
4 12 mediation agreement. If an accommodation is not reached, the
4 13 mediator issues a mediation release which allows a plaintiff
4 14 to file a claim for relief in district court. In the instance
4 15 of Code chapter 654C, legal action is not at issue because
4 16 mediation is initiated by the agricultural producer to obtain
4 17 a waiver of a statutory requirement. The mediator may also
4 18 issue a mediation release if the potential defendant in a
4 19 legal action fails to participate in mediation.

4 20 In all cases, a participant in mediation may be an
4 21 individual. The participant may also be a business entity
4 22 subject to the farmland ownership restrictions of Code
4 23 chapters 9H and 9I. The business entity is usually organized
4 24 as some form of limited liability partnership, corporation,
4 25 limited liability company, or cooperative or similar
4 26 association. The bill applies to these types of business
4 27 entities.

4 28 The bill provides that a party to mediation who is a
4 29 creditor, a farm resident, or a neighbor of an animal feeding
4 30 operation may submit an affidavit to the mediator executed by
4 31 an attorney affirming that the other party is a foreign
4 32 business entity organized as a limited liability partnership,
4 33 corporation, limited liability company, or cooperative

4 34 association and that the entity has not been issued a
4 35 certificate to do business in this state by the secretary of
5 1 state. The bill provides that upon receipt of the affidavit,
5 2 the mediator must issue a release. The party seeking a
5 3 judicial remedy must initiate a legal proceeding within 30
5 4 days.
5 5 LSB 6909HC 80
5 6 da/pj/5